

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

IN RE: DA VINCI SURGICAL ROBOT  
ANTITRUST LITIGATION.

Case No. 3:21-cv-03825-AMO

This Document Relates to All Actions

**DECLARATION OF JOSHUA  
WEINGARD IN SUPPORT OF  
OMNIBUS MOTION TO FILE UNDER  
SEAL PORTIONS OF MOTION FOR  
CLASS CERTIFICATION AND  
RESPONSES THERETO**

I, Joshua Weingard, declare as follows:

1. I am the Chief Legal Officer of non-party Asensus Surgical, Inc., as successor to TransEnterix, Inc. (collectively, “Asensus”). I have personal knowledge of the facts set forth below, and, if called as a witness, I could and would competently testify to those facts.

2. Pursuant to Civil Local Rule 79-5, and, in accordance with the Stipulation and Order Regarding Omnibus Sealing Procedures in this matter, dated June 7, 2024 [Dkt. No. 269], I submit this Declaration in support of the parties’ Omnibus Motion to File Under Seal portions of plaintiffs’ Motion for Class Certification, and the supporting documents and responses thereto, which include a Class Certification Expert Report of Professor Einer Elhauge, dated June 6, 2023 (the “Elhauge Report”). *See* Decl. of M. Dominguez in Supp. of Pls. Mot. for Class Cert. [Dkt. No. 267-1] at Ex. 1.

3. I reviewed relevant excerpts of the Elhauge Report, including those

1 unredacted portions that reflect information Asensus designated as “Highly Confidential” in prior  
2 litigation, captioned *Restore Robotics, LLC v. Intuitive Surgical, Inc.*, Case No. 5:19-cv-00055-  
3 TKW-MJF (U.S.D.C. N.D. Fla.). (Asensus was a non-party in that prior litigation, too.)

4 4. Information in the body of the Elhauge Report and in supporting footnotes  
5 reflects confidential business information of Asensus, including commercial terms of Asensus’  
6 contracts with its customers and pricing information. Asensus’ Highly Confidential information  
7 appears in the Elhauge Report in footnotes 606, 890,921, and 1537, and in the body of the Elhauge  
8 Report to which those footnotes refer.

9 5. The disclosure of this commercially valuable information to competitors  
10 and the public would harm Asensus.

11 6. The redactions proposed by the parties are appropriate, and have been  
12 narrowly tailored to best balance the need for public disclosure of court filings and for protecting  
13 Asensus’ confidential business information.

14 I declare under penalty of perjury under the laws of the United States of America  
15 that the foregoing is true and correct. Executed on October 25, 2024, at Miami, Florida.

16 DATED: October 25, 2024

Joshua Weingard

17  
18 /s/ Joshua Weingard

19 Joshua Weingard  
20 Chief Legal Officer, Asensus Surgical, Inc.  
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